

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE **FILED**
KNOXVILLE DIVISION

2017 DEC 22 A 10:27

R. ALEXANDER ACOSTA,)
Secretary of Labor,)
United States Department of Labor,)
Petitioner,)
v.)
JEWELRY TELEVISION,)
Respondent.)

U.S. DISTRICT COURT
EASTERN DIST. TENN.

DEPT. CLERK

3:17cv545

**THE SECRETARY OF LABOR'S PETITION TO
COMPEL RESPONDENT TO PRODUCE DOCUMENTARY EVIDENCE
AND REQUEST FOR EXPEDITED HEARING**

R. Alexander Acosta, Secretary of Labor, United States Department of Labor ("the Secretary"), hereby petitions the Court to compel Respondent Jewelry Television ("JT") to produce documentary evidence and in support of his Petition asserts:

1. This action is brought to compel Respondent to comply with a subpoena duces tecum issued and directed to it by the Regional Director, Employee Benefits Security Administration, United States Department of Labor, pursuant to its investigative authority under the Employment Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001, et seq.

2. This Court has jurisdiction over this petition pursuant to Sections 9 and 10 of the Federal Trade Commission Act, 15 U.S.C. §§ 49 and 50, as

made applicable by section 504(c) of ERISA, 29 U.S.C. § 1134(c) and pursuant to section 502(e)(1) and (2) of ERISA, 29 U.S.C. § 1132(e)(1) and (2).

3. EBSA's preliminary investigation has revealed that JT is a Tennessee corporation with a principal place of business at 9600 Parkside Dr., Knoxville, TN 37922. Its Registered Agent is Allen M. Carpenter, located at the same address. JT is the Plan sponsor for the Jewelry Television Accumulated Assets 401(k) Plan (the "Plan"), which the Secretary is currently investigating to determine whether a violation of Title I of ERISA has occurred.

4. Pursuant to authority delegated to her and in connection with an investigation initiated pursuant to section 504, 29 U.S.C. § 1134, the Regional Director signed and issued a subpoena duces tecum on October 14, 2016, requiring Respondent to produce certain records and documents necessary to the investigation to Investigator Carla D. Gatling or Supervisory Investigator David Ritter at the Employee Benefits Security Administration's office at 61 Forsyth St., Room 7B54, Atlanta, Georgia 30303 on November 4, 2016 at 2:30 p.m. A copy of the subpoena is attached as Exhibit A to the accompanying Declaration of Carla Gatling.

5. The subpoena was duly served upon Respondent by sending it certified mail on October 14, 2016, the subpoena was received by JT on October 19, 2016.

6. On October 24, 2016, JT wrote the Secretary acknowledging receipt of the subpoena but refusing to comply with the subpoena. A copy of this letter is attached as Exhibit B to the accompanying Declaration of Carla Gatling.

7. Subsequent efforts to achieve compliance have been fruitless.

8. Despite repeated efforts to achieve compliance without resorting to this Court for assistance, to date Respondent has failed and refused to produce copies of the records and documents requested in the subpoena or to produce them for copying only agreeing to produce them for review at Respondent's location.

WHEREFORE, Petitioner prays that the Court:

1. Order Respondent to immediately deliver all documents requested by the subpoena;
2. Order Respondents to pay to the Petitioner an amount of money sufficient to compensate him for his expenses incurred in this petition; and
3. Grant such further relief as necessary or appropriate.

Dated this 21st day of December 2017.

ADDRESS:

Office of the Solicitor
U. S. Department of Labor
61 Forsyth Street, S.W.
Room 7T10
Atlanta, GA 30303

Telephone:
(404) 302-5461
(404) 302-5438 (FAX)
Steffenson.dane@dol.gov

NICHOLAS C. GEALE
Acting Solicitor of Labor

STANLEY E. KEEN
Regional Solicitor

ROBERT M. LEWIS, JR.
Counsel for ERISA

By: Dane L. Steffenson *by
Dane L. Steffenson*
DANE L. STEFFENSON
Senior Trial Attorney

Office of the Solicitor,
U. S. Department of Labor,
Attorneys for Complainant.

SOL Case No. 17-00540